

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 412

Introduced by Senator Figueroa

February 17, 2005

An act to ~~amend Section 27~~ *add and repeal Chapter 10.5 (commencing with Section 4600) to Division 2 of the Business and Professions Code, relating to ~~consumer affairs~~ massage therapy.*

LEGISLATIVE COUNSEL'S DIGEST

SB 412, as amended, Figueroa. ~~Department of Consumer Affairs~~ *Massage therapy.*

Existing law provides for the regulation of various healing arts professionals, including physicians and surgeons, chiropractors, physical therapists, and acupuncturists. Existing law authorizes the legislative body of a city or county to enact ordinances providing for the licensing and regulation of the business of massage when carried on within the city or county.

This bill would provide for the certification of massage practitioners and massage therapists by the Massage Therapy Organization, which would be a nonprofit organization that meets specified requirements. The bill would require applicants for certification as massage practitioners or massage therapists to be 18 years of age or older, to meet specified educational criteria, and to pay fees required by the organization. The bill would make it an unfair business practice for a person to represent himself or herself as a certified massage therapist or certified massage practitioner without meeting these requirements. The bill would make it an unfair business practice for a certificate holder to make certain advertisements or representations to the public. The bill would prohibit a city, county, or other local government from enacting an ordinance regulating the practice of

massage by a certificate holder. The bill would make the Massage Therapy Organization subject to review by the Joint Committee on Boards, Commissions, and Consumer Protection. The bill would require the organization to provide the committee with a related report by September 1, 2008. The bill would repeal these provisions on January 1, 2010.

~~Existing law requires certain entities and programs under the jurisdiction of the Department of Consumer Affairs to provide information on the Internet regarding their licensees, and whether a license has been suspended or revoked, among other things.~~

~~This bill would correct an erroneous cross-reference and make other nonsubstantive changes.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 27 of the Business and Professions~~
2 ~~Code is amended to read:~~
3 *SECTION 1. Chapter 10.5 (commencing with Section 4600)*
4 *is added to Division 2 of the Business and Professions Code, to*
5 *read:*

6
7 CHAPTER 10.5. MASSAGE THERAPISTS
8

9 4600. *As used in this chapter, the following terms shall have*
10 *the following meanings:*

11 (a) *“Approved school” or “approved massage school” means*
12 *a facility that meets minimum standards for training and*
13 *curriculum in massage and related subjects and that is approved*
14 *by the Bureau For Private Postsecondary And Vocational*
15 *Education pursuant to Section 94915 of the Education Code, by*
16 *an institution accredited pursuant to paragraph (7) of*
17 *subdivision (b) of Section 94739 of the Education Code, by*
18 *colleges or universities of the state higher education system as*
19 *defined in Section 100850 of the Education Code, or by a school*
20 *of equal or greater training that is approved by the*
21 *corresponding agency in another state or accredited by an*
22 *agency recognized by the United States Department of*
23 *Education.*

1 (b) “Compensation” means the payment, loan, advance,
2 donation, contribution, deposit, or gift of money or anything of
3 value.

4 (c) “Massage” means the application of a system of structured
5 touch, pressure, movement, and holding to the soft tissues of the
6 human body with the intent to enhance or restore the health and
7 well-being of the client. The practice includes the external
8 application of water, heat, cold, lubricants, salt scrubs, or other
9 topical preparations; use of devices that mimic or enhance the
10 actions of the hands; and determination of whether massage
11 therapy is appropriate or contraindicated, or whether referral to
12 another health care practitioner is appropriate. For purposes of
13 this chapter, massage and bodywork are interchangeable.

14 (d) “Massage therapist,” “bodyworker,” “bodywork
15 therapist,” or “massage and bodywork therapist” means a
16 person who is certified by the Massage Therapy Organization
17 under subdivision (c) of Section 4601 and who administers
18 massage for compensation.

19 (e) “Massage practitioner,” “bodywork practitioner,” or
20 “massage and bodywork practitioner” means a person who is
21 certified by the Massage Therapy Organization under
22 subdivision (b) of Section 4601 and who administers massage for
23 compensation.

24 (f) “Organization” means the Massage Therapy Organization,
25 which shall be a nonprofit organization, exempt from taxation
26 under paragraph (3) of subsection (c) of Section 501 of Title 26
27 of the United States Code, of massage therapists whose
28 governing board shall include representatives of the public,
29 except that an organization not currently exempt under that
30 section that submits an application to the Internal Revenue
31 Service requesting an exemption under that section shall be
32 eligible to be the Massage Therapy Organization if it meets the
33 requirements under that section within a reasonable period of
34 time. The organization shall be a single organization made up of
35 not more than one representative from each professional society,
36 organization, association, or other entity operating as a
37 nonprofit corporation that chooses to act as the organization to
38 carry out the duties required under this chapter.

39 (g) “Registered school” means a facility that meets minimum
40 standards for training and curriculum in massage and related

1 subjects that is recognized by the Bureau For Private
2 Postsecondary And Vocational Education pursuant to Section
3 94931 of the Education Code, by an institution accredited by the
4 senior commission or the junior commission of the Western
5 Association of Schools and Colleges as defined in paragraph (7)
6 of subdivision (b) of Section 94739 of the Education Code, by
7 colleges and universities of the state higher education system as
8 defined in Section 100850 of the Education Code, or by a school
9 of equal or greater training that is approved by the
10 corresponding agency in another state.

11 4601. (a) The organization shall issue a certificate to an
12 applicant who satisfies the requirements of this chapter.

13 (b) In order to obtain certification as a massage practitioner,
14 an applicant shall submit a written application and provide the
15 organization with satisfactory evidence that he or she meets all
16 of the following requirements:

17 (1) The applicant is 18 years of age or older.

18 (2) The applicant has successfully completed, at a single
19 approved school, curricula in massage and related subjects
20 totaling a minimum of 250 hours, that incorporates appropriate
21 school assessment of student knowledge and skills. Included in
22 the hours shall be instruction addressing anatomy and
23 physiology, contraindications, health and hygiene, and business
24 and ethics, with at least 100 hours of the required minimum 250
25 hours devoted to these curriculum areas.

26 (3) All fees required by the organization have been paid.

27 (c) In order to obtain certification as a massage therapist, an
28 applicant shall submit a written application and provide the
29 organization with satisfactory evidence that he or she meets all
30 of the following requirements:

31 (1) The applicant is 18 years of age or older.

32 (2) The applicant satisfies one of the following requirements:

33 (A) He or she has successfully completed the curricula in
34 massage and related subjects totaling a minimum of 500 hours.
35 Of this 500 hours, a minimum of 250 hours shall be from
36 programs that satisfy the criteria established in Section 4600.
37 The remaining 250 hours required may be secured either from
38 these programs, from registered schools, or from approved
39 continuing education providers.

1 (B) *The applicant has passed a certification exam that has*
2 *been approved by the organization.*

3 (3) *All fees required by the organization have been paid.*

4 (d) *The organization shall issue a certificate to an applicant*
5 *who meets the other qualifications of this chapter and holds a*
6 *current and valid registration, certification, or license from any*
7 *other state whose licensure requirements meet or exceed those*
8 *defined within this chapter. The organization shall have*
9 *discretion to give credit for comparable academic work*
10 *completed by an applicant in a program outside of California.*

11 (e) *An applicant applying for a massage therapist or massage*
12 *practitioner certificate shall file with the organization a written*
13 *application provided by the organization, showing to the*
14 *satisfaction of the organization that he or she meets all of the*
15 *requirements of this chapter.*

16 (f) *Any certification issued under this chapter shall be subject*
17 *to renewal in a manner prescribed by the organization and shall*
18 *expire unless renewed in that manner. The organization may*
19 *provide for the late renewal of a license.*

20 4605. *It is an unfair business practice for any certified*
21 *massage therapist or certified massage practitioner to state or*
22 *advertise or put out any sign or card or other device, or to*
23 *represent to the public through any print or electronic media,*
24 *that he or she is state-certified, registered, or licensed by a*
25 *governmental agency to perform the functions of a massage*
26 *therapist or massage practitioner.*

27 4610. *It is an unfair business practice for any person to hold*
28 *oneself out or use the title of “certified massage therapist” or*
29 *“certified massage practitioner” or any other term that implies*
30 *or suggests that the person is certified as a massage therapist or*
31 *practitioner without meeting the requirements of Section 4601.*

32 4612. (a) *A city, county, or other political jurisdiction within*
33 *the state shall not enact an ordinance that regulates the practice*
34 *of massage, as defined in this chapter, by an individual who is*
35 *certified under this chapter. No provision of any ordinance*
36 *enacted by a city, county, or other political jurisdiction that is in*
37 *effect before the effective date of this chapter, and that relates to*
38 *the practice of massage, may be enforced against a person who*
39 *is issued a certificate under this chapter.*

1 (b) Nothing in this chapter shall be interpreted to prevent any
2 local jurisdiction from adopting or enforcing any local ordinance
3 that is not in conflict with any provision of this chapter, as long
4 as it does not conflict with subdivision (a). Nothing in this
5 chapter shall preclude application of any local ordinance with
6 respect to a person certified pursuant to this chapter where that
7 ordinance is equally applied to any person operating any other
8 lawful business within the local jurisdiction.

9 4615. (a) This chapter shall be subject to the review required
10 by Division 1.2 (commencing with Section 473).

11 (b) The Massage Therapy Organization shall provide to the
12 Joint Committee on Boards, Commissions, and Consumer
13 Protection by September 1, 2008, a report as required by Section
14 473.2.

15 4620. This chapter shall remain in effect only until January 1,
16 2010, and as of that date is repealed, unless a later enacted
17 statute, that is enacted before January 1, 2010, deletes or extends
18 that date.

19 ~~27. (a) Every entity specified in subdivision (b), on or after~~
20 ~~July 1, 2001, shall provide on the Internet information regarding~~
21 ~~the status of every license issued by that entity in accordance~~
22 ~~with the California Public Records Act (Chapter 3.5~~
23 ~~(commencing with Section 6250) of Division 7 of Title 1 of the~~
24 ~~Government Code) and the Information Practices Act of 1977~~
25 ~~(Chapter 1 (commencing with Section 1798) of Title 1.8 of Part~~
26 ~~4 of Division 3 of the Civil Code). The public information to be~~
27 ~~provided on the Internet shall include information on suspensions~~
28 ~~and revocations of licenses issued by the entity and other related~~
29 ~~enforcement action taken by the entity relative to persons,~~
30 ~~businesses, or facilities subject to licensure or regulation by the~~
31 ~~entity. In providing information on the Internet, each entity shall~~
32 ~~comply with the Department of Consumer Affairs Guidelines for~~
33 ~~Access to Public Records. The information may not include~~
34 ~~personal information, including home telephone number, date of~~
35 ~~birth, or social security number. Each entity shall disclose a~~
36 ~~licensee's address of record. However, each entity shall allow a~~
37 ~~licensee to provide a post office box number or other alternate~~
38 ~~address, instead of his or her home address, as the address of~~
39 ~~record. This section shall not preclude an entity from also~~
40 ~~requiring a licensee, who has provided a post office box number~~

1 ~~or other alternative mailing address as his or her address of~~
2 ~~record, to provide a physical business address or residence~~
3 ~~address only for the entity's internal administrative use and not~~
4 ~~for disclosure as the licensee's address of record or disclosure on~~
5 ~~the Internet.~~

6 ~~(b) Each of the following entities within the Department of~~
7 ~~Consumer Affairs shall comply with the requirements of this~~
8 ~~section:~~

9 ~~(1) The Acupuncture Board shall disclose information on its~~
10 ~~licensees.~~

11 ~~(2) The Board of Behavioral Sciences shall disclose~~
12 ~~information on its licensees, including marriage and family~~
13 ~~therapists, licensed clinical social workers, and licensed~~
14 ~~educational psychologists.~~

15 ~~(3) The Dental Board of California shall disclose information~~
16 ~~on its licensees.~~

17 ~~(4) The State Board of Optometry shall disclose information~~
18 ~~regarding certificates of registration to practice optometry,~~
19 ~~statements of licensure, optometric corporation registrations,~~
20 ~~branch office licenses, and fictitious name permits of their~~
21 ~~licensees.~~

22 ~~(5) The Board for Professional Engineers and Land Surveyors~~
23 ~~shall disclose information on its registrants and licensees.~~

24 ~~(6) The Structural Pest Control Board shall disclose~~
25 ~~information on its licensees, including applicators, field~~
26 ~~representatives, and operators in the areas of fumigation, general~~
27 ~~pest and wood destroying pests and organisms, and wood roof~~
28 ~~cleaning and treatment.~~

29 ~~(7) The Bureau of Automotive Repair shall disclose~~
30 ~~information on its licensees, including auto repair dealers, smog~~
31 ~~stations, lamp and brake stations, smog check technicians, and~~
32 ~~smog inspection certification stations.~~

33 ~~(8) The Bureau of Electronic and Appliance Repair shall~~
34 ~~disclose information on its licensees, including major appliance~~
35 ~~repair dealers, combination dealers (electronic and appliance),~~
36 ~~electronic repair dealers, service contract sellers, and service~~
37 ~~contract administrators.~~

38 ~~(9) The Cemetery and Funeral Bureau shall disclose~~
39 ~~information on its licensees, including cemetery brokers,~~
40 ~~cemetery salespersons, crematories, cremated remains disposers~~

1 ~~; embalmers, funeral establishments, and funeral directors.~~

2 ~~-~~

3 ~~(10) The Contractors' State License Board shall disclose~~
4 ~~information on its licensees in accordance with Chapter 9~~
5 ~~(commencing with Section 7000) of Division 3. In addition to~~
6 ~~information related to licenses as specified in subdivision (a), the~~
7 ~~board shall also disclose information provided to the board by the~~
8 ~~Labor Commissioner pursuant to Section 98.9 of the Labor Code.~~

9 ~~(11) The Board of Psychology shall disclose information on its~~
10 ~~licensees, including psychologists, psychological assistants, and~~
11 ~~registered psychologists.~~

12 ~~(c) "Internet" for the purposes of this section has the meaning~~
13 ~~set forth in paragraph (6) of subdivision (f) of Section 17538.~~